

JOSEPH P. RUSSONIELLO (CSBN 44332)
United States Attorney

BRIAN STRETCH (163973)
Acting Chief, Criminal Division

SUSAN B. GRAY (CSBN 100374)
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
Telephone: 415.436.7324
Facsimile: 415.436.7234
E-mail: susan.b.gray@usdoj.gov

Attorneys for the United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. REAL PROPERTY AND
IMPROVEMENTS IDENTIFIED BY
MENDOCINO COUNTY APN 051-290-
04,051-300-02,0510310-01,051-320-01;

2. REAL PROPERTY AND
IMPROVEMENTS IDENTIFIED BY
MENDOCINO COUNTY APN 051-180-08,
051-190-05, 052-010-01, 052-010-02, 052-010-
03, 052-010-09, 052-010-14, 052-010-15, 052-
010-16, 052-010-17 AND HUMBOLDT
COUNTY APN 222-024-003, 222-025-003;

3. REAL PROPERTY AND IMPROVEMENTS
IDENTIFIED BY MENDOCINO COUNTY
APN 051-180-09, 051-180-10.

Defendants.

No. C 08 3093 WHA

**STIPULATION AND ORDER RE
INTERLOCUTORY SALE OF DEFENDANT
REAL PROPERTY**

Plaintiff, United States of America, and claimant, Diana Mendes, through counsel
Jonathan Howden, ("the parties") agree, subject to the Court's approval, to the interlocutory sale
of the defendant real property, which is described as:

1 REAL PROPERTY AND IMPROVEMENTS IDENTIFIED BY MENDOCINO
2 COUNTY APN 051-180-08, 051-190-05, 052-010-01, 052-010-02, 052-010-03, 052-
010-09, 052-010-14, 052-010-15, 052-010-16, 052-010-17 AND HUMBOLDT
3 COUNTY APN 222-024-003, 222-025-003

4 (hereinafter "defendant real property") as follows:

5 1. On or about June 26, 2008, plaintiff commenced this forfeiture action against the
6 defendant real property alleging that it was subject to forfeiture, pursuant Title 21, United States
7 Code, Section 881(a)(7), as property which facilitated the cultivation of marijuana.

8 2. Lost Paradise Land Corporation (hereinafter "LPLC"), is the owner of record for
9 the defendant real property. Lost Paradise Land Corporation has never filed a claim in this
10 action. On September 15, 2009, the United States requested the Clerk to enter a default for the
11 defendant real property, which if granted, will be followed by a Motion for Default Judgement.

12 3. Claimant Diana Mendes claims a secured interest in defendant real property
13 pursuant to a note secured by a deed of trust to the defendant property. See Answer filed
14 September 3, 2008. She is the only entity to appear in this case and make a claim to the
15 defendant real property.

16 4. No payments have been made by LPLC on Claimant Mendes' note since June of
17 2008. Interest and late fees have been accruing since that time and the lack of timely payments
18 diminishes the equity in the property for both parties.

19 5. An interlocutory sale will prevent further accrual of debt on the note and deed of
20 trust and will facilitate the prompt disposition of this forfeiture action.

21 6. The parties agree to an interlocutory sale of the defendant real property on the
22 following terms:

- 23 a. The United States Marshals Service shall sell and dispose of the defendant
24 property in accordance with law. The Marshals Service may exercise their
25 discretion to employ the services of a duly qualified agent and title
26 company to facilitate the sale of the defendant property. Both the United
27 States and Claimant Diana Mendes must approve the sales price of the

defendant property before the property may be sold. The parties will not unreasonably withhold their approval of the sales price.

b. The net proceeds from the sale of the defendant real property shall be paid to the United States Marshals Service upon the close of escrow. "Net Proceeds" are defined in paragraph f. below.

c. Diana Mendes agrees to provide a release of her claims of the secured interest in defendant real property to the escrow officer at the title company handling the escrow for the interlocutory sale, along with directions to the escrow officer to record her release with the county recorder upon payment to the United States by the escrow officer of the net proceeds of the sale pursuant to the terms of this stipulation and order.

d. Upon receipt of the net proceeds of the sale of the defendant property, the United States Marshals Service shall deposit and maintain the net proceeds in an interest bearing account until further order of this court.

e. The net proceeds shall be deemed the substitute for the defendant real property and the claims of the respective parties shall apply against that substitute res. The parties to this stipulation and proposed order further reserve the right to challenge the merits of those claims in this proceeding.

f. The "net proceeds" of the sale of the defendant real property will be determined by deducting only the ordinary costs of sale, such as real estate commission, recording fees and other customary closing costs, but not including attorneys' fees. The United States must approve, in writing, the estimated closing costs before the closing can take place.

g. The United States will provide a release of its *lis pendens* on the defendant real property to the escrow officer at the title company handling the escrow along with directions to the escrow officer to record the release with the

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1 county recorder upon payment to the United States by the escrow officer
2 of the net proceeds of the sale of the defendant real property as set forth
3 above.

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5 7. The United States reserves the right to approve any potential buyer and purchase
6 price.

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10 IT IS SO STIPULATED:

11 Dated: September 15, 2009

JOSEPH P. RUSSONIELLO
United States Attorney

SUSAN B. GRAY
Assistant United States Attorney

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13 Dated: 9-15-09

JONATHAN HOWDEN
Counsel for Claimant Diana Mendes

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15
16 Dated: 9-15-09

Diana Mendes
Diana Mendes, Claimant, Lienholder

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22 IT IS SO ORDERED ON THIS 29th DAY OF September, 2009, PURSUANT TO
23 THE FOREGOING STIPULATION.

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26 DATED: September 29, 2009

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28 **STIPULATION AND ORDER RE INTERLOCUTORY SALE**
[C 08-3093 WHA] 4

